



The League of Women Voters of Portland

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DATE: September 5, 2016

TO: Dennis McClerran, Regional Administrator
U.S. Environmental Protection Agency, Region 10

FROM: League of Women Voters of Portland
Frances Dyke, President
Debbie Aiona, Action Committee Chair

RE: Portland Harbor Superfund Site
Proposed Plan

The League of Women Voters of Portland appreciates the opportunity to comment on the Environmental Protection Agency's (EPA) proposed cleanup plan for the Portland Harbor Superfund Site. We have reviewed the plan and other related documents, attended public forums, and met with EPA staff seeking answers to our technical questions.

The League's advocacy work is at all times guided by positions our membership adopts at the national, state, and local levels. Positions are adopted through a consensus process after member review of League studies.

In this case, we are relying on our national Natural Resources position to evaluate the EPA's proposal.

League of Women Voters of the United States Natural Resources position (relevant passages):

The League believes that natural resources should be managed as interrelated parts of life-supporting ecosystems. Resources should be conserved and protected to assure their future availability. Pollution of these resources should be controlled in order to preserve the physical, chemical and biological integrity of ecosystems and to protect public health.

The League supports the preservation of the physical, chemical and biological integrity of the ecosystem and maximum protection of public health and the environment.

"To promote political responsibility through informed and active participation in government."

The League supports:

Water resource programs and policies that reflect the interrelationships of water quality, water quantity, groundwater and surface water and that address the potential depletion or pollution of water supplies;

Measures to reduce water pollution from direct point source discharges and from indirect nonpoint sources;

Policies to achieve water quality essential for maintaining species populations and diversity, including measures to protect lakes, estuaries, wetlands, and in-stream flows.

INTRODUCTION

Using this position as the basis for our comments to the EPA, the League has concluded that EPA's Preferred Alternative I does not adequately address the pollution in the Portland Harbor, nor is it sufficiently protective of human health and the environment.

PRIORITIZE LONG-TERM EFFECTIVENESS AND PERMANENCE AND THE REDUCTION OF TOXICITY

The League of Women Voters of Portland urges the EPA to adopt a cleanup plan that is even more comprehensive than that described in Alternative G.

This recommendation is based on three major factors:

- Lack of confidence in the timely effectiveness of Monitored Natural Recovery.
- The large number of Potentially Responsible Parties, and
- The ineffectiveness of Institutional Controls.

Monitored Natural Recovery: The League supports dredging a greater volume of contaminated sediment than described in Alternative G because of the lack of confidence expressed by authoritative sources such as the National Remedy Review Board (NRRB) and the Oregon Department of Environmental Quality (DEQ) in the effectiveness of Monitored Natural Recovery (MNR) in this application.

The NRRB expressed concerns about the efficacy of MNR in the Portland Harbor and cited the lack of qualitative evidence and modeling information. (NRRB memo, 12/31/15, p. 9) DEQ's October 19, 2015 memo to the NRRB (pgs. 4 and 5) cites EPA analysis casting doubt on the ability of the Lower Willamette Group's modeling to predict natural recovery rates in the Portland Harbor.

Potentially Responsible Parties: The large number of Potentially Responsible Parties (PRP) is one of the factors that persuaded us of the importance of devising a plan that gets it right the first time and reduces the possibility of the need for additional remedial action.

The EPA will monitor cleanup progress every five years. Because of the heavy reliance on MNR, however, we fear that five or ten years from now the EPA will discover that additional work is needed. It will be extremely challenging, however, to go back to the many PRPs for funding and this likely will delay even further the Willamette River's recovery.

Institutional Controls -- Fish Advisories and Regulated Navigational Areas: Concerns regarding the effectiveness of Institutional Controls reinforce the League's conclusion that more removal of contaminated sediment and less reliance on MNR should be pursued.

The NRRB and DEQ both point to the difficulty of enforcing Institutional Controls. As the NRRB states in its memo to the EPA, the "challenges generally are true for fish advisories that may need to address human health risks over long time periods in a very large, extensively used water body like the site's study area." (NRRB memo, 12/31/15, p. 3) The DEQ explains that existing advisories are not deterring people from catching and eating resident fish, the primary threat to public health. (DEQ memo to NRRB, 10/19/15, p. 6) As the EPA's proposed plan states, upon completion, Alternative G relies to the least extent on fish advisories, confirming the benefits to public health and the environment of removing more contaminated sediment.

The Portland Harbor is critical to the economic success of the city and state. The DEQ places a priority on limiting the use of engineering controls such as engineered caps that will lead to the need for extensive use of Regulated Navigation Areas because of its concern over the effect on navigation, boating, and other marine activities. This concern argues for the removal of a greater volume of contaminated sediment in order to reduce the possibility that capped areas containing contaminants will be disturbed by recreational boating or shipping, thereby risking recontamination.

COLUMBIA RIVER

The adopted cleanup plan should protect the Columbia from further contamination. Although the Columbia River is not part of the Portland Harbor Superfund Site, the EPA acknowledges that contamination from the site is being transported to the Columbia. (EPA Proposed Plan: Portland Harbor Superfund Site, June 2016, p. 13) The same arguments in favor of adopting a plan that removes more contaminants than described in Alternative G can be made when considering the long-term health of the Columbia River. The risk of recontamination of both the

Portland Harbor and the Columbia through flooding, earthquakes, and navigational accidents is reduced when highly contaminated sediments are removed from the site.

ENVIRONMENTAL JUSTICE

The needs of communities most affected by the contamination in the Portland Harbor over the decades should be carefully considered. While the League cannot speak for them, we understand that cleaning up the Portland Harbor so that they and others can consume resident fish without concern of harming their health is of utmost importance. Furthermore, because these communities are neighbors to a number of environmental hazards due to industrial activity, siting a toxic waste dump (Confined Disposal Facility) in their vicinity would add insult to injury. The EPA needs to pay particular attention to these communities when adopting and implementing the cleanup plan.

CONFINED DISPOSAL FACILITY

The League opposes the Confined Disposal Facility (CDF), a less stable repository than a certified toxic waste disposal facility. According to the EPA's analysis, a CDF would be logistically and administratively challenging and add to the length of time it takes to complete construction. Concerns over habitat destruction and the risks presented by climate change, flooding, and earthquakes are compelling. The League favors offsite disposal.

WILDLIFE AND THE ENVIRONMENT

In the short term, a comprehensive cleanup with significant removal of contaminated sediments would be the most disruptive to biological communities; however, the greatest risk reduction would be achieved in the long term. In weighing the balancing criteria, the League placed the most emphasis on long-term effectiveness and permanence and the reduction of toxicity and favors a more aggressive approach to provide certainty that minimal or no additional remedial action will be necessary.

The cleanup plan describes the impact of various types of capping and surface applications on habitat. Every effort should be made to select options that will provide a healthy functioning aquatic environment for the benthic community and other wildlife. We agree with the EPA's beach sand mix recommendation and its preference for using engineered caps rather than armored caps.

LONG-TERM MONITORING AND ACCOUNTABILITY OF RESPONSIBLE PARTIES

Monitoring of progress in meeting the short-term and long-term goals of the cleanup plan is an absolute necessity. As the DEQ points out in its memo to the NRRB (p. 2), clear water quality criteria and jointly agreed upon definitions of sediment recontamination and in-water risk related to source control performance standards will be critical to development of a valid monitoring plan. Clearly defined standards also will serve the community as it tracks the progress towards returning the Willamette to a healthy state. Furthermore, the League supports DEQ's request for a well-defined data management plan and actively managed database. The database should be available to the public in order to promote transparency.

The large number of Potentially Responsible Parties contributing to contamination of the Portland Harbor over the last century complicates matters and adds to the uncertainty facing the success of the cleanup plan and the future health of the river. As we stated earlier, this is one of the most significant factors leading the League to recommend adoption of an aggressive cleanup plan with removal of large volumes of contaminated sediments.

In order to provide the certainty the public deserves, the EPA should require some form of insurance or performance bonds to cover the cost of additional remedial action if the adopted plan does not lead to the anticipated or desired results.

CONCLUSION

- The League cannot support EPA's preferred alternative and recommends adoption of a cleanup plan that is more comprehensive than Alternative G, but less so than Alternative H.
- EPA's preferred alternative is overly reliant on MNR. The DEQ and NRRB both expressed serious doubts about the timely effectiveness of MNR. The people and wildlife that depend on the Portland Harbor have endured a toxic river for over a century. Now is the time to implement a plan we can be confident will return the Willamette to a healthy state. That plan should include more dredging and removal of contaminated sediments than described in Alternative G.
- The uncertainties related to MNR in the preferred alternative present a higher degree of financial risk due to the large number of PRPs involved and the long recovery period. If MNR is found to be ineffective at the five-year monitoring intervals, it will be unduly cumbersome to renegotiate financial commitments with the involved parties. Removing a larger volume of contaminated sediments reduces the likelihood that there will be a need for additional remedial action.
- Transporting contaminants to an off-site certified toxic waste disposal facility is preferable to storing them in the proposed CDF. Flooding, earthquakes, and

other catastrophic events could re-expose humans and wildlife to more concentrated contaminants.

- The final plan should address the needs of people who have been most negatively affected by the contamination of the Willamette River. The adopted plan should give communities that rely on consuming resident fish, whether for cultural or economic reasons, certainty that in the not too distant future the river will support fish that are safe to eat and a thriving wildlife population. Furthermore, local residents should not have to bear the additional risk inherent in living near a CDF that is vulnerable to catastrophic events.
- The League urges you to adopt a cleanup plan that is more aggressive than Alternative G. Please ensure that the cleanup of the Willamette River is conducted in a way that is scientifically sound, fiscally accountable, and socially just.